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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,039	10/15/2001	Edward J. Kuebert	08049.0831	1583

22852 7590 04/21/2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER

BASS, JON M

ART UNIT

PAPER NUMBER

3639

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/976,039	KUEBERT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jon Bass	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*J.B.*

### **DETAILED ACTION**

1. This office action is in response to "Flexible Mail Delivery System".

#### ***Information Disclosure Statement***

2. The examiner considered the following Information Disclosure Statement submitted on October 15, 2001.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

**Claims 1-5, 11-12, 23-26, and 28-29 are** rejected under 35

U.S.C. 102(b) as being anticipated by James Fleckenstein et al.(Pub

Date: 2004/0211834) hereinafter referenced as Fleckenstein.

**As Per Claims 1, 5,11, and 12:**

Fleckenstein discloses a system and method; for changing the delivery point of an item while the item is en route, comprising: determining a first delivery point of the item; notifying, based on the first delivery point, a recipient that the item is en route; accepting at least one instruction designating a second delivery point; and delivering the item to the second delivery point, (pg.1, [0013]; method for modifying the delivery of items intended for delivery at a first location. Includes modification authorization at first location have alternate delivery code).

**As Per Claim 2:**

Fleckenstein discloses a system and method, wherein accepting the at least one instruction comprises accepting at least one instruction from the recipient, (pg2, [0016]; recipient providing alternate delivery instructions to a delivery service).

**As Per Claim 3:**

Fleckenstein discloses a system and method; wherein accepting at least one instruction designating a second delivery point comprises: notifying a sender of the item; and allowing the sender to specify whether to deliver to the first delivery point or the second delivery

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point, (pg2, [0016], recipient providing alternate delivery instructions to a delivery service and recipient receives delivery modification authorization).

**As Per Claim 4:**

Fleckenstein discloses a system and method; wherein delivering the item to the second delivery point comprises: notifying the sender, if actual delivery is made; and requesting disposition instructions from the sender, if delivery was not made, (pg2, [0016], recipient providing alternate delivery instructions to a delivery service and recipient receives delivery modification authorization).

**As Per Claim 5:**

Fleckenstein discloses a system and method; for changing the delivery point of an item while the item is en route, comprising: determining a first delivery point of the item; notifying a sender that the item is en route; accepting a second delivery point from the sender; and delivering the item to the second delivery point, (pg.1, [0013]; method for modifying the delivery of items intended for delivery at a first location. Includes modification authorization at first location have alternate delivery code).

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**As Per Claim 23, 24, 25, 26, 28 and 29:**

Fleckenstein discloses a system and method wherein determining the at least one characteristic of the item comprises determining a weight of the item, (Fig.7, element 700; tracking, shipping, time, pick-up, drop off; and Fig.8, element 800; delivery attempt, details, and tracking information).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 6-10, 13,14, 15-22 and 30 are rejected under 35**

U.S.C. 103(a) as being unpatentable over by Christine Ray (Pub Date: 2004/0128207) hereinafter referenced as Ray in further view of David Tilles et al. (Pub Date: 2004/0193314) hereinafter referenced as Tilles.

**As Per Claim 6:**

Ray discloses a method and system for handling an undeliverable item, comprising: notifying a sender of the item that the item is undeliverable; accepting a disposition instruction from the sender; and handling the item according to the disposition instruction, (pg1, [0007]; sending third notification if the item has not successfully delivered), but does not disclose a wherein determining a first delivery point of the item comprises capturing an image of the item, However Tilles discloses a method and system wherein determining a first delivery point of the item comprises capturing an image of the item, (fig. 3, element 154, 158, 160; scanner, pin number, and signature).

**As Per Claim 7:**

Ray discloses a method and system wherein the disposition instruction is an instruction to return the item to the sender, (pg2, [0019]; if item is undeliverable the item may be forwarded to processing point).

**As Per Claims 8, 9, 10, 13:**

Ray discloses a method and system wherein the disposition instruction is an instruction to auction the item, (pg 2, [0019]; ancillary services may be performed. Example of services is recycle

service, forwarding services etc.).

**As Per Claims 14,15, 20 and 30:**

Ray discloses a method and system further comprising:  
providing information to indicate that the item was delivered to one of  
the first delivery point and second delivery point, (pg.1, [0007] first  
notification indicating that an item has been placed in a delivery  
system).

**As Per Claim 16:**

Ray discloses a method and system further comprising:  
providing information to indicate that the item was not delivered, when  
the first delivery point and second delivery point are undeliverable,  
(pg.1, [0007]; third notification indicating that an item has not been  
delivered).

**As Per Claims 17 and 18:**

Ray discloses a method and system further comprising:  
providing at least one additional notification based on delivery of the  
item to the at least one additional delivery point, (pg.1, [0007]; fourth



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notification indicating that an item has not been delivered).

**As Per Claims 19, 21 and 22:**

Tilles discloses a method and system wherein determining a first delivery point of the item comprises capturing an image of the item, (fig. 3, element 154, 158, 160; scanner, pin number, and signature).

***Conclusion***

Any concerns in regard to this communication, the examiner **Jon Bass** can be reached at (571) 272-6905 between the hours of 9-6pm Monday through Friday. The fax number for the establishment where the application is being process is (703) 302-3472.

If an attempt to reach the examiner is unsuccessful for any reason, the examiner's immediate supervisor, **John Weiss** can be reached at (571) 271-6812.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-271-9197 (toll free).

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

C/O Technology Center 3600

*Jon B.*

*TH* *AID*  
**THOMAS A. DIXON**  
**PRIMARY EXAMINER**